

**FILED**

NOV 03 2015

SECRETARY, BOARD OF  
OIL, GAS & MINING

**BEFORE THE BOARD OF OIL, GAS AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH**

IN THE MATTER OF THE REQUEST FOR  
AGENCY ACTION OF BADLANDS ENERGY –  
UTAH, LLC FOR AN ORDER EXTENDING  
THE BOARD’S ORDER ENTERED IN CAUSE  
NO. 139-84, AND MODIFYING THE BOARD’S  
ORDERS ENTERED IN CAUSE NOS. 131-24  
AND 139-42 TO PROVIDE FOR THE DRILLING  
OF ADDITIONAL WELLS TO ACHIEVE THE  
EQUIVALENT OF UP TO A 160-ACRE WELL  
DENSITY PATTERN, FOR THE PRODUCTION  
OF OIL, GAS AND ASSOCIATED  
HYDROCARBONS FOR THE LOWER GREEN  
RIVER – WASATCH FORMATIONS IN  
SECTIONS 1, 9, 10, 12, 13, 15-17, 19-24 AND 26-  
35, TOWNSHIP 2 SOUTH, RANGE 1 EAST,  
USM, UINTAH COUNTY, UTAH

**PROPOSED  
FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
ORDER**

Docket No. 2015-024

Cause No. 139-135

This Cause came on for hearing before the Utah Board of Oil, Gas and Mining (the “Board”) on Wednesday, October 28, 2015, at approximately 9:45 a.m., in the Auditorium of the Utah Department of Natural Resources Building in Salt Lake City. The following Board members were present and participated at the hearing: Chairman Ruland J. Gill, Jr., Carl F. Kendell, Chris D. Hansen, Gordon L. Moon, Susan S. Davis and Michael R. Brown. Board Member Richard K. Borden was unable to attend. The Board was represented by Michael S. Johnson, Esq., Assistant Attorney General.

Testifying on behalf of Petitioner Badlands Energy – Utah, LLC (“Badlands”) were John L. Obourn – Land Manager, Richard A. Kopp – Chief Geoscientist, and Deborah Ryan – Consulting Reservoir Engineer. Mr. Kopp and Ms. Ryan were recognized by the Board as experts in geology and petroleum engineering, respectively, for purposes of this Cause. Relma M. Miller, Esq., of and for MacDonald & Miller Mineral Legal Services, PLLC, appeared as attorney for Badlands.

The Division of Oil, Gas and Mining (the “Division”) did not file a staff memorandum in this Cause but participated in the hearing. Melissa L. Reynolds, Esq., Assistant Attorney General, appeared as attorney for, and, with the Board’s permission, John Rogers, Associate Director, and Dustin Doucet, Petroleum Engineer, asked questions on behalf of the Division. At the conclusion of Badland’s presentation in-chief, Ms. Reynolds expressed the Division’s support for the granting of Badland’s Amended Request for Agency Action dated September 10, 2015 (the “Request”), as conformed to the testimony and other evidence provided at the hearing.

Jerry Kenczka, Assistant Field Manager for Lands and Minerals, Vernal District Office of the United States Bureau of Land Management (“BLM”), acting not only on its own behalf, but also in its trust capacity on behalf of the Ute Indian Tribe and Indian Allottees and as advisor to the Bureau of Indian Affairs, Uintah & Ouray Agency (“BIA”), filed a Letter on October 26, 2015 expressing the BLM’s support for the

granting of the Request. However, no BLM representative made an appearance at the hearing.

Additionally, letters of support were filed by RIG II, LLC and Crescent Point U.S. Energy Corp. on October 20 and 22, 2015, respectively. No other party filed a response to the Request and no other party appeared or participated at the hearing.

The Board, having considered the testimony presented and the exhibits received into evidence at the hearing, being fully advised, and for good cause, hereby makes the following findings of fact, conclusions of law and order in this Cause.

#### **FINDINGS OF FACT**

1. Badlands, successor in interest to Gasco Energy Inc., is a Delaware corporation with its principal place of business in Denver, Colorado. Badlands is duly qualified to conduct business in the State of Utah, and is fully and appropriately bonded with all relevant, Federal, Indian and State of Utah agencies.

2. By Order entered on January 16, 1974 in Cause No. 131-24 (the "131-24 Order"), the Board established the following Uintah County, Utah lands as respective sectional drilling units for the production of oil, gas and hydrocarbons from the Lower Green River-Wasatch formations, defined by reference to the Board's Order entered on August 11, 1971 in Cause No. 131-14 as follows:

that interval below the stratigraphic equivalent of 9,600 feet depth in the "E" Log of the Carter #2 Bluebell well located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ , Section

3, Township 1 South, Range 2 West, U.S.M. (which equivalence is the depth 9,530 feet of the SP curve, Dual Induction Log, run March 15, 1968, in the Chevron #1 Blanchard well located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of said [Section 3]), to the base of the Green River-Wasatch formations,

(the "Subject Formations"), and authorized one well on each such drilling unit, to be located no closer than 1,320 feet from a drilling unit boundary:

T2S, R1E, USM

- Section 1: Lots 1-4, S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$  [All, 652.74 acres]
- Section 9: All
- Section 10: Lots 1-16, 18-24, N $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ , and that portion of Duchesne Nos. 1-10, inclusive, (Patented) Mining Claims (Survey No. 5519) contained therein [All, 642.303 acres]
- Section 12: Lots 1 and 2, N $\frac{1}{2}$ , SE $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$  SE $\frac{1}{4}$ SW $\frac{1}{4}$  [All, 638.82 acres]
- Section 13: Lots 1-10, E $\frac{1}{2}$  [All, 641.98 acres]
- Section 15: Lots 1-8, E $\frac{1}{2}$ W $\frac{1}{2}$ , E $\frac{1}{2}$ , and that portion of Duchesne Nos. 1-10, inclusive, (Patented) Mining Claims (Survey No. 5519) contained therein [All, 649.09 acres]
- Section 16: All
- Section 17: All
- Section 19: Lots 1-4, E $\frac{1}{2}$ W $\frac{1}{2}$ , E $\frac{1}{2}$  [All, 638.46 acres]
- Section 20: Lots 1-8, N $\frac{1}{2}$  [All, 632.73 acres]
- Section 21: Lots 1-4, 6-10, N $\frac{1}{2}$  [All, 636.76 acres]

acres]

Section 22: Lots 1-8, E $\frac{1}{2}$ W $\frac{1}{2}$ , E $\frac{1}{2}$  [All, 649.76 acres]

Section 23: Lots 1-9, N $\frac{1}{2}$ , SE $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$  [All, 640.50 acres]

Section 24: Lots 1-8, E $\frac{1}{2}$  [All, 635.51 acres]

Section 26: Lots 1-15, NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$  [All, 640.48 acres]

Section 27: Lots 1-14, E $\frac{1}{2}$ NW $\frac{1}{2}$ , NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$  [All, 644.86 acres]

Section 28: All

Section 29: All

Section 30: Lots 1-4, E $\frac{1}{2}$ W $\frac{1}{2}$ , E $\frac{1}{2}$  [All, 640.96 acres]

Section 31: Lots 1-4, E $\frac{1}{2}$ W $\frac{1}{2}$ , E $\frac{1}{2}$  [All, 640.27 acres]

Section 32: All

Section 33: All

Section 34: All

Section 35: All

(hereinafter the "Subject Lands").

3. By Order entered April 17, 1985 in Cause No. 139-42 (the "139-42 Order"), the Board modified the 131-24 Order as relevant to the Subject Lands, among other lands, to provide that additional wells which produce from the Subject Formations may be drilled, completed, and produced on the established drilling units to a density of no greater than two producing wells in each unit. Additional wells may be drilled at the

option of the operator of the unit based upon geologic and engineering data for that unit which will justify an additional well in order to recover oil, provided that said operator would have a reasonable opportunity to recover costs of drilling, completing, producing and operating a well plus a reasonable profit. Any additional well must be located at least 1,320 feet from an existing well in the unit and not closer than 660 feet from the exterior boundary of the unit, and no two wells may be drilled in the same quarter section.

4. The oil, gas and associated hydrocarbons underlying the Subject Lands as relevant to the Subject Formations are a mixture of Indian, Federal, State and fee (private) ownership. Badlands owns working interests/operating rights in much of the Subject Lands.

5. Badlands operates the following wells producing oil from the Subject Formations upon the Subject Lands:

<u>Well Name</u>	<u>Location</u>	<u>DOFP</u>
Pappadakis 15-24-2-1E	Sec. 24: SW $\frac{1}{4}$ SE $\frac{1}{4}$	1/10/15
Cuch 10-17-2-1E	Sec. 17: NW $\frac{1}{4}$ SE $\frac{1}{4}$	8/21/15
Babb 6-24-2-1E	Sec. 24: SE $\frac{1}{4}$ NW $\frac{1}{4}$	9/24/15
Tryon 10-19-2-1E	Sec. 19: NE $\frac{1}{4}$ SW $\frac{1}{4}$	spud 8/15/15

6. By Order entered on December 31, 2008 in Cause No. 139-84 (the “139-84 Order”), the Board modified many other orders applicable to the Altamont/Bluebell/Cedar Rim – Sink Draw fields, but only as relating to lands other than the Subject Lands, to allow up to four (4) wells producing from the Subject Formations upon each drilling unit established under said orders, to be drilled at the option of the operator and with the operator’s full discretion as to the development of the hydrocarbon resources; provided that each additional well shall be no closer than 1,320 feet from an existing unit well completed in and producing from the formations and no closer than 660 feet from the drilling unit boundary. The Board did not specifically address whether the authorized wells are to be just vertical/deviated wells or may also include horizontal wells.

7. As relating to the Subject Formations, the Board, in the 139-84 Order, expressly found:

- a) [P]roduction occurs from multiple, generally low-matrix porosity, thin-bedded sandstones, forming a highly complex series of isolated and discontinuous beds that are randomly distributed vertically over a several thousand-foot interval. Normally, the productive beds are separate and distinct and not in communication with each other [Finding of Fact No. 15];
- b) [M]any of the productive beds are not correlatable from well to well and will not afford communication between wells within several hundred feet of one another [Findings of Fact No. 16];
- c) [E]vidence from mudweights, pressure data, well logs, and production data show virgin and near virgin zones exist and reserves that otherwise would

not be produced will be recovered by the drilling, completion and production of third and fourth wells [Findings of Fact No. 21]; and

- d) The drilling of increased density wells under existing orders within [the area subject to the 139-84 Order] demonstrates:
- Second wells have recovered in excess of 55 MMBOE of incremental oil to date;
  - Second and third wells drilled discovered incremental oil in new reservoirs not intersected by earlier wells;
  - Second and third wells do not drain the reserves in the drilling units and are nearing the end of their economic lives;
  - The average well drainage area [for the area subject to the 139-84 Order] is approximately 160 acres;
  - Some of the reservoirs intersected by second and third wells do communicate with the earlier wells drilled, but also encountered incremental reserves (new reservoirs) that have not been previously encountered and produced;
  - Despite some pressure communication between increased density wells with first and subsequent wells in [sic, a] section, there is not overall production interference or production acceleration between wells; and
  - Production from second, third, and even fourth wells in section did not adversely affect production in the first and other pre-existing wells producing from the [Lower Green River and Wasatch formations] in the drilling units.

[Findings of Fact No. 22].

In addition, the Board expressly made the following conclusions of law:



- a) The 640-acre drilling units shall remain a uniform size and shape...and conform to the predominant pattern in the area established by the [139-42 Order]...[Conclusion of Law No. 5]; and
- b) An order authorizing the drilling of additional wells, up to four wells in the established units at the option of the operator,...will promote the public interest, economically increase ultimate maximum recovery, prevent waste, protect correlative rights of all owners, and avoid the drilling of unnecessary wells [Conclusion of Law No. 7].

8. The geologic and engineering exhibits received into evidence and the testimony received relating thereto support that the Subject Formations, as underlying the lands subject to the 139-84 Order, are sufficiently analogous, and that the Board's Findings of Fact and Conclusions of Law in the 139-84 Order as outlined in Findings of Fact No. 9 above appear to be equally applicable, to the Subject Lands. The extension of the 139-84 Order to the Subject Lands to allow the drilling of up to four (4) vertical or directionally drilled wells upon the drilling units for said lands is reasonable and justified under the circumstances.

9. Adequate evidence was presented to reflect that the additional wells may be drilled economically.

10. A copy of the Request was mailed, postage pre-paid, certified with return receipt requested, and properly addressed to all mineral, leasehold and production interest owners in the Subject Lands, and to the BIA, the BLM and TLA. The mailings were sent

to said parties at their last addresses disclosed by the relevant Uintah County and agency realty records.

11. Notice of the filing of the Request and of the hearing thereon was duly published in the Salt Lake Tribune and the Deseret Morning News on October 4, 2015, and in the Uintah Basin Standard and Vernal Express on October 6, 2015.

12. The vote of the Board members present and participating in the hearing on this Cause was unanimous (6-0) in favor of granting the Request.

### **CONCLUSIONS OF LAW**

1. Due and regular notice of the time, place and purpose of the hearing was properly given to all parties whose legally protected interests are affected by the Request in the form and manner as required by law and the rules and regulations of the Board and Division.

2. The Board has jurisdiction over all matters covered by the Request and all interested parties therein, and has the power and authority to render the order herein set forth pursuant to Utah Code Ann. §§ 40-6-5(3)(b) and 40-6-6.

3. In addition to the exhibits admitted into evidence and testimony received in the hearing, the Board took judicial notice of the exhibits admitted into evidence and testimony received in the hearing on Cause No. 139-84 pursuant to Utah Code Ann. § 63G-4-206(1)(b)(iv).

4. By virtue of the 131-24 Order, the Board made the legal determination and declared the Subject Formations to constitute one “pool” or “common source of supply” of oil, gas and hydrocarbons as relating to the Subject Lands as that phrase is defined in Utah Code Ann. § 40-6-2(19).

5. Correlative rights to production of oil, gas and hydrocarbons from the Subject Formations within each specified drilling unit were established by virtue of the 131-24 Order and pursuant to the holding of *Cowling v. Board of Oil, Gas and Mining*, 830 P.2d 220, 226 (Utah 1991).

6. Correlative rights will be protected by virtue of pooling or communitization agreements conforming to the existing 131-24 Order, pursuant to which production will be allocated to all production interest owners within the applicable drilling unit regardless of the number of wells producing from the Subject Formations. Furthermore, the correlative rights of the parties in adjacent drilling units and lands are protected by virtue of maintaining the same drilling unit boundary setbacks as currently exist under the 139-42 and 139-84 Orders.

7. The relief granted hereby will result in consistent and orderly development and the greatest recovery of oil, gas and associated hydrocarbons from the Subject Formations underlying the Subject Lands without waste, will adequately protect the

correlative rights of all affected parties, and is just and reasonable under the circumstances.

8. Badlands has sustained its burden of proof, demonstrated good cause, and satisfied all legal requirements for the granting of the Request.

### **ORDER**

Based upon the Request, testimony and evidence submitted, and the findings of fact and conclusions of law stated above, the Board hereby orders:

1. The Request in this cause is granted.
2. The 139-84 Order is hereby extended to the Subject Lands to allow up to four (4) producing wells from the Subject Formations upon the existing drilling units, subject to the same setback limitations set forth in said order.
3. Pursuant to Utah Admin. Code Rules R641 and Utah Code Ann. § 63G-4-204 to 208, the Board has considered and decided this matter as a formal adjudication.
4. This Order is based exclusively on evidence of record in the adjudicative proceeding or on facts officially noted, and constitutes the signed written order stating the Board's decision and the reasons for the decision, all as required by the Administrative Procedures Act, Utah Code Ann. § 63G-4-208 and Utah Administrative Code Rule R641-109.

5. Notice re: Right to Seek Judicial Review by the Utah Supreme Court or to Request Board Reconsideration: As required by Utah Code Ann. § 63G-4-208(e) - (g), the Board hereby notifies all parties in interest that they have the right to seek judicial review of this final Board Order in this formal adjudication by filing a timely appeal with the Utah Supreme Court within 30 days after the date that this Order issued. Utah Code Ann. §§ 63G-4-401(3)(a) and 403. As an alternative to seeking immediate judicial review, and not as a prerequisite to seeking judicial review, the Board also hereby notifies parties that they may elect to request that the Board reconsider this Order, which constitutes a final agency action of the Board. Utah Code Ann. § 63G-4-302, entitled, “Agency Review – Reconsideration,” states:

(1)(a) Within 20 days after the date that an order is issued for which review by the agency or by a superior agency under Section 63G-4-301 is unavailable, and if the order would otherwise constitute final agency action, any party may file a written request for reconsideration with the agency, stating the specific grounds upon which relief is requested.

(b) Unless otherwise provided by statute, the filing of the request is not a prerequisite for seeking judicial review of the order.

(2) The request for reconsideration shall be filed with the agency and one copy shall be sent by mail to each party by the person making the request.

(3)(a) The agency head, or a person designated for that purpose, shall issue a written order granting the request or denying the request.

(b) If the agency head or the person designated for that purpose does not issue an order within 20 days after the filing of the request, the request for reconsideration shall be considered to be denied.

*Id.* The Board also hereby notifies the parties that Utah Admin. Code Rule R641-110-100, which is part of a group of Board rules entitled, "Rehearing and Modification of Existing Orders," states:

Any person affected by a final order or decision of the Board may file a petition for rehearing. Unless otherwise provided, a petition for rehearing must be filed no later than the 10<sup>th</sup> day of the month following the date of signing of the final order or decision for which the rehearing is sought. A copy of such petition will be served on each other party to the proceeding no later than the 15<sup>th</sup> day of the month.

*Id.* See Utah Admin. Code Rule R641-110-200 for the required contents of a petition for Rehearing. If there is any conflict between the deadline in Utah Code Ann. § 63G-4-302 and the deadline in Utah Admin. Code Rule R641-110-100 for moving to rehear this matter, the Board hereby rules that the later of the two deadlines shall be available to any party moving to rehear this matter. If the Board later denies a timely petition for rehearing, the party may still seek judicial review of the Order by perfecting a timely appeal with the Utah Supreme Court within 30 days thereafter.

The Board retains continuing jurisdiction over all the parties and over the subject matter of this cause, except to the extent said jurisdiction may be divested by the filing of a timely appeal to seek judicial review of this order by the Utah Supreme Court.

For all purposes, the Chairman's signature on a faxed copy of this Order shall be deemed the equivalent of a signed original.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2015

**STATE OF UTAH  
BOARD OF OIL, GAS AND MINING**

By: \_\_\_\_\_  
Ruland J. Gill, Jr., Chairman

2050.09

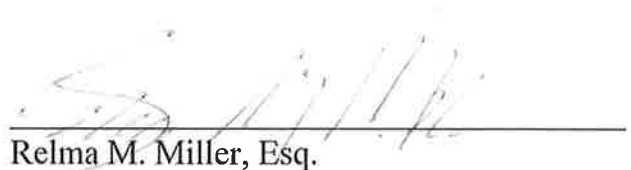
### CERTIFICATE OF SERVICE

I hereby certify that, on this 14<sup>th</sup> day of November, 2015, I caused a true and correct copy of the foregoing Proposed Findings of Fact, Conclusions of Law and Order to be mailed, postage pre-paid, and sent electronically to the following:

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